

technical changes for the bonus awards. We will notify States and other interested parties of our decisions through annual program guidance. We will also post this information on the Internet.

**§ 270.11 When must the States report the data and other information in order to compete for bonus awards?**

(a) *All measures.* Each State must submit a list of the measures on which it is competing by February 28 of each bonus year.

(b) *Work measures.* Each State must collect quarterly and submit semi-annually during the bonus year the data specified in § 270.6(a) as follows:

(1) The data for the first and second quarters of the performance year and, if a State chooses to compete on an improvement measure, the first and second quarters of the comparison year, must be submitted by the dates we will specify in program guidance.

(2) The data for the third and fourth quarters of the performance year and, if a State chooses to compete on an improvement measure, the third and fourth quarters of the comparison year, must be submitted by the dates we will specify in program guidance.

(c) *SSP-MOE reporting.* Each State must collect quarterly its SSP-MOE Data Report as specified in § 270.6(b) and submit it:

(1) At the same time as it submits its quarterly TANF Data Report; or

(2) At the time it seeks to be considered for a high performance bonus as long as it submits the required data for the full period for which this determination will be made.

(d) *Medicaid/SCHIP measures.* Each State must submit the data required to compete on the Medicaid/SCHIP measures by the dates and in a manner that we and CMS will specify.

(e) *Child care subsidy measure.* Each State must submit the data required to compete on the child care measure by the date(s) we will specify.

**§ 270.12 Must States file the data electronically?**

Each State must submit the data required to compete for the high performance bonus work measures and the Medicaid/SCHIP measures electroni-

cally in a manner that we and CMS will specify.

**§ 270.13 What do States need to know about the use of bonus funds?**

(a) A State must use bonus award funds to carry out the purposes of the TANF block grant as specified in section 401 (Purpose) and section 404 (Use of Grants) of the Act.

(b) As applicable, these funds are subject to the requirements in and limitations of sections 404 and 408 of the Act and § 263.11 of this chapter.

(c) For Puerto Rico, Guam, the Virgin Islands, and American Samoa, the bonus award funds are not subject to the mandatory ceilings on funding established in section 1108(c)(4) of the Act.

(d) States must report quarterly on the use of the bonus funds.

**PARTS 282 [RESERVED]**

**PART 283—IMPLEMENTATION OF SECTION 403(A)(2) OF THE SOCIAL SECURITY ACT BONUS TO REWARD DECREASE IN ILLEGITIMACY RATIO**

Sec.

283.1 What does this part cover?

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283.4 If a State wants to be considered for bonus eligibility, what birth data must it submit?

283.5 How will we use these birth data to determine bonus eligibility?

283.6 If a State wants to be considered for bonus eligibility, what data on abortions must it submit?

283.7 How will we use these data on abortions to determine bonus eligibility?

283.8 What will be the amount of the bonus?

283.9 What do eligible States need to know to access and use the bonus funds?

AUTHORITY: 42 U.S.C. 603.

SOURCE: 64 FR 18493, Apr. 14, 1999, unless otherwise noted.

**§ 283.1 What does this part cover?**

This part explains how States may be considered for the “Bonus to Reward Decrease in Illegitimacy Ratio,” as authorized by section 403(a)(2) of the Social Security Act. It describes the data on which we will base the bonus, how

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we will make the award, and how we will determine the amount of the award.

### § 283.2 What definitions apply to this part?

The following definitions apply to this part:

*Abortions* means induced pregnancy terminations, including both medically and surgically induced pregnancy terminations. This term does not include spontaneous abortions, i.e., miscarriages.

*Act* means the Social Security Act.

*Bonus* refers to the Bonus to Reward Decrease in Illegitimacy Ratio, as set forth in section 403(a)(2) of the Act.

*Calculation period* refers to the four calendar years used for determining the decrease in the out-of-wedlock birth ratios for a bonus year. (The years included in the calculation period change from year to year.)

*Most recent two-year period for which birth data are available* means the most recent two calendar years for which the National Center for Health Statistics has released final birth data by State.

*Most recent year for which abortion data are available* means the year that is two calendar years prior to the current calendar year. (For example, for eligibility determinations made during calendar year 1999, the most recent year for which abortion data are available would be calendar year 1997.)

*NCHS* means the National Center for Health Statistics, of the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

*Number of out-of-wedlock births for the State* means the final number of births occurring outside of marriage to residents of the State, as reported in NCHS vital statistics data.

*Number of total births for the State* means the final total number of live births to residents of the State, as reported in NCHS vital statistics data.

*Rate of abortions* means the number of abortions reported by the State in the most recent year for which abortion data are available divided by the State's total number of resident live births reported in vital statistics for that same year. (This measure is also

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more traditionally known as the “abortion to live birth ratio.”)

*Ratio* refers to the ratio of live out-of-wedlock births to total live births, as defined in § 283.5(b).

*State* means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa, as provided in section 419(a)(5) of the Act.

*Vital statistics data* means the data reported by State health departments to NCHS, through the Vital Statistics Cooperative Program (VSCP).

*We (and any other first person plural pronouns)* means the Secretary of Health and Human Services or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

### § 283.3 What steps will we follow to award the bonus?

(a) For each of the fiscal years 1999 through 2002, we will:

(1) Based on the vital statistics data provided by NCHS as described in § 283.4, calculate the ratios for the most recent two years for which final birth data are available, and for the prior two years, as described in § 283.5;

(2) Calculate the proportionate change between these two ratios, as described in § 283.5.

(3) Identify as potentially eligible a maximum of eight States, i.e., Guam, the Virgin Islands, and American Samoa, and five other States, that have qualifying decreases in their ratios, using the methodology described in § 283.5;

(4) Notify these potentially eligible States that we will consider them for the bonus if they submit data on abortions as stated in § 283.6; and

(5) Identify which of the potentially eligible States that submitted the required data on abortions have experienced decreases in their rates of abortion relative to 1995, as described in § 283.7. These States will receive the bonus.

(b) We will determine the amount of the grant for each eligible State, based on the number of eligible States, and whether Guam, American Samoa, or the Virgin Islands are eligible. No State will receive a bonus award greater than \$25 million in any year.

**§ 283.4 If a State wants to be considered for bonus eligibility, what birth data must it submit?**

(a) To be considered for a bonus, the State must have submitted data on out-of-wedlock births as follows:

(1) The State must have submitted to NCHS the final vital statistics data files for all births occurring in the State. These files must show, among other elements, the total number of live births and the total number of out-of-wedlock live births occurring in the State. These data must conform to the Vital Statistics Cooperative Program contract for all years in the calculation period. This contract specifies, among other things, the guidelines and time-lines for submitting vital statistics data files; and

(2) The State must have submitted these data for the most recent two years for which NCHS reports final data, as well as for the previous two years.

(b) If a State has changed its method of determining marital status for the purposes of these data, the State also must have met the following requirements:

(1) The State has identified all years for which the method of determining marital status is different from that used for the previous year;

(2) For those years identified under paragraph (b)(1) of this section, the State has either:

(i) Replicated as closely as possible a consistent method for determining marital status at the time of birth, and the State has reported to NCHS the resulting alternative number of out-of-wedlock births; or

(ii) If NCHS agrees that such replication is not methodologically feasible, the State may chose to accept an NCHS estimate of what the alternative number would be;

(3) The State has submitted documentation to NCHS on what changes occurred in the determination of mar-

ital status for those years and, if appropriate, how it determined the alternative number of out-of-wedlock births for the State; and

(4) For methodological changes that were implemented prior to 1998 and applicable to data collected for the bonus period, the State has submitted the information described in paragraphs (b)(1), (2) and (3) of this section within two months after April 14, 1999. For such changes implemented during or after 1998, the State must submit such information either by the end of calendar year 1999 or according to the same deadline that applies to its vital statistics data for that year, whichever is later.

**§ 283.5 How will we use these birth data to determine bonus eligibility?**

(a) We will base eligibility determinations on final vital statistics data provided by NCHS showing the number of out-of-wedlock live births and the number of total live births among women living in each State and a factor provided by NCHS to adjust for changes in data reporting for those States that have changed their methodology for collecting data on out-of-wedlock births during the bonus period.

(b) We will use the number of total live births and the number of out-of-wedlock births, adjusted for any changes in data collection or reporting, to calculate the decrease in the ratio of out-of-wedlock to total births for each State as follows:

(1) We will calculate the ratio as the number of out-of-wedlock births for the State during the most recent two-year period for which NCHS has final birth data divided by the number of total births for the State during the same period. We will calculate, to three decimal places, the ratio for each State that submits the necessary data on total and out-of-wedlock births described in § 283.4.

(2) We will calculate the ratio for the previous two-year period using the same methodology.

(3) We will calculate the proportionate change in the ratio as the ratio of out-of-wedlock births to total births for the most recent two-year period minus the ratio of out-of-wedlock

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births to total births from the prior two-year period, all divided by the ratio of out-of-wedlock births to total births for the prior two-year period. A negative number will indicate a decrease in the ratio and a positive number will indicate an increase in the ratio.

(c) We will identify which States have a decrease in their ratios large enough to make them potentially eligible for the bonus, as follows:

(1) For States other than Guam, American Samoa and the Virgin Islands, we will use this calculated change to rank the States and identify which five States have the largest decrease in their ratios. Only States among the top five will be potentially eligible for the bonus. We will identify fewer than five such States as potentially eligible if fewer than five experience decreases in their ratios. We will not include Guam, American Samoa and the Virgin Islands in this ranking.

(2) If we identify more than five States due to a tie in the decrease, we will recalculate the ratio and the decrease in the ratio to as many decimal places as necessary to eliminate the tie. We will identify no more than five States.

(3) For Guam, American Samoa and the Virgin Islands, we will use the calculated change in the ratio to identify which of these States experienced a decrease that is either at least as large as the smallest qualifying decrease identified in paragraph (c)(1) of this section, or a decrease that ranks within the top five decreases when all States and Territories are ranked together. These identified States will be potentially eligible for the bonus also.

(4) We will notify the potentially eligible States, as identified under paragraphs (a) through (c) of this section that they must submit the information on abortions specified under § 283.6 if they want to be considered for the bonus.

### **§ 283.6 If a State wants to be considered for bonus eligibility, what data on abortions must it submit?**

(a) To be considered further for bonus eligibility, each potentially eligible State, as identified under § 283.5, must submit to ACF data and information

on the number of abortions for calendar year 1995 within two months of this notification. This number must measure either of the following:

(1) For calendar year 1995, the total number of abortions performed by all providers within the State; or

(2) For calendar year 1995, the total number of abortions performed by all providers within the State on the total population of State residents only. This is the preferred measure.

(b) States must have obtained these data on abortions for calendar year 1995 within 60 days of publication of the final rule and must include with their submission of 1995 data an official record documenting when they obtained the abortion data.

(c) Within two months of notification by ACF of potential eligibility, the State must submit:

(1) The number of abortions performed for the most recent year for which abortion data are available (as defined in § 283.2 to mean the year that is two calendar years prior to the current calendar year). In measuring the number of abortions, the State must use the same definition, either under paragraph (a)(1) or paragraph (a)(2) of this section, for both 1995 and the most recent year; or

(2) If applicable, the adjusted number and information specified in paragraph (d) of this section.

(d) If the State's data collection or reporting methodology changed between 1995 and the bonus year in such a way as to reflect an increase or decrease in the number of abortions that is different than what actually occurred during the period, the State must:

(1) When submitting the number of abortions for the most recent year under paragraph (c)(2), adjust the number to exclude increases or decreases in the number due to changes in methodology for collecting or reporting the data. For example, this calculation should include adjustments for increases or decreases in response rates for providers in reporting abortion data;

(2) Provide a rationale for the adjustment, i.e., a description of how the data collection or reporting methodology was changed. This could include

a description of how legislative, policy or procedural changes affected the collection or reporting of abortion data, or an indication of changes in the response rate of providers in reporting abortion data; and

(3) Provide a certification by the Governor, or his or her designee, that the number of abortions reported to ACF accurately reflects these adjustments for changes in data collection or reporting methodology.

**§ 283.7 How will we use these data on abortions to determine bonus eligibility?**

(a) For those States that have met all the requirements under §§ 283.1 through 283.6, we will calculate the rate of abortions for calendar year 1995 and for the most recent year for which abortion data are available as defined in § 283.2. These rates will equal the number of abortions reported by the State to ACF for the applicable year, divided by total live births among women living in the State reported by NCHS for the same year. We will calculate the rates to three decimal places.

(b) If ACF determines that the State's rate of abortions for the most recent year for which abortion data are available is less than the rate for 1995, and, if the State has met all the requirements listed elsewhere under this part, the State will receive the bonus.

**§ 283.8 What will be the amount of the bonus?**

(a) If, for a bonus year, none of the eligible States is Guam, American Samoa or the Virgin Islands, then the amount of the grant shall be:

(1) \$20 million per State if there are five eligible States; or

(2) \$25 million per State if there are fewer than five eligible States.

(b) If for a bonus year, Guam, the Virgin Islands, or American Samoa is an eligible State, then the amount of the grant shall be:

(1) In the case of such a State, 25 percent of the mandatory ceiling amount as defined in section 1108 of the Act; and

(2) In the case of any other State, \$100 million, minus the total amount of any bonuses paid to Guam, the Virgin

Islands, and American Samoa, and divided by the number of eligible States other than Guam, American Samoa and the Virgin Islands, not to exceed \$25 million per State.

**§ 283.9 What do eligible States need to know to access and use the bonus funds?**

(a) States must use the bonus funds to carry out the purposes of the Temporary Assistance for Needy Families Block Grant in section 401 and 404 of the Act. This may include statewide programs to prevent and reduce the incidence of out-of-wedlock pregnancies.

(b) As applicable, these funds are subject to the requirements in, and the limitations of, sections 404 and 408 of the Act.

(c) For Puerto Rico, Guam, the Virgin Islands, and American Samoa, the bonus award funds are not subject to the mandatory ceilings on funding established in section 1108(c)(4) of the Act.

**PART 284—METHODOLOGY FOR DETERMINING WHETHER AN INCREASE IN A STATE OR TERRITORY'S CHILD POVERTY RATE IS THE RESULT OF THE TANF PROGRAM**

Sec.

284.10 What does this part cover?

284.11 What definitions apply to this part?

284.15 Who must submit information to ACF to carry out the requirements of this part?

284.20 What information will we use to determine the child poverty rate in each State?

284.21 What will we do if the State's child poverty rate increased five percent or more over the two-year period?

284.30 What information must the State include in its assessment of the impact of the TANF program(s) in the State on the increase in child poverty?

284.35 What action will we take in response to the State's assessment and other information?

284.40 When is a corrective action plan due?

284.45 What are the contents and duration of a corrective action plan?

284.50 What information will we use to determine the child poverty rate in each Territory?

AUTHORITY: 42 U.S.C. 613(i)